

BorgWarner's Appendix of Summary Judgment Exhibits

Exhibit 22

2 Deposition of International Union, United Automotive,
Aerospace & Agricultural Implement Workers of America (Feb. 1,
2012) (Richard Isaacson)

IN THE DISTRICT COURT OF THE UNITED STATES
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ORIGINAL

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WILLARD L. SLOAN, EUGENE : Case
J. WINNINGHAM, and : 2:09-cv-10918-PDB-MKM
JAMES L. KELLEY, :
:
:
Plaintiffs, : U.S. District Judge
: Paul D. Borman
v. :
: U.S. Mag. Judge
BORGWARNER, INC., BORGWARNER : Mona K. Majzoub
DIVERSIFIED TRANSMISSION :
PRODUCTS INC., and BORGWARNER :
FLEXIBLE BENEFITS PLANS, :
:
Defendants. :
:
----- x

Detroit, Michigan

Wednesday, February 1, 2012

Deposition of

RICHARD ISAACSON, VOLUME II

a witness of lawful age, taken on behalf of the
Defendant in the above-entitled action, before Gail R.
McLeod, RPR, CSR 2901, at 8000 East Jefferson Avenue,
commencing at 12:50 p.m.

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1 P R O C E E D I N G S

2 Whereupon,

3 RICHARD ISAACSON

4 having first been duly sworn, was examined and
5 testified as follows:

6 EXAMINATION

7 BY MR. ROGACZEWSKI:

8 Q Good afternoon. How are you today?

9 A Fine. Thank you.

10 Q Can you state and spell your name for the
11 record?

12 A My name is Richard Allen, A-L-L-E-N, Isaacson,
13 I-S-A-A-C-S-O-N.

14 Q Are you feeling well this afternoon, Mr.
15 Isaacson?

16 A Yeah.

17 Q Have you taken any prescription medication in
18 the last 24 hours?

19 A No.

20 Q Have you taken any non-prescription medication
21 in the last 24 hours?

22 A Yes.

1 Q Would that medication affect your memory?

2 A No.

3 Q Would taking that medication affect your
4 ability to provide testimony today on behalf of the
5 UAW?

6 A I don't believe so.

7 MR. ROGACZEWSKI: This is a previously marked
8 exhibit from the first part of the deposition.

9 BY MR. ROGACZEWSKI:

10 Q Mr. Isaacson, I'm showing you what was marked
11 in the first part of the deposition of the UAW as
12 Exhibit 2 which is a subpoena to testify in a
13 deposition in a civil action. Are you familiar with
14 this document?

15 A Yes.

16 Q How are you familiar with this document?

17 A I was shown it by Counsel.

18 Q What is this document?

19 A My understanding, it's a subpoena. That's the
20 reason I'm here today.

21 Q Did the UAW ask you to testify today on its
22 behalf?

1 A Yes.

2 Q Did the UAW ask you to testify about specific
3 topics?

4 A They told me that I was going to be asked some
5 questions about retiree health care and they told me it
6 had something to do with BorgWarner.

7 Q Do you recall specifically what topic about
8 which the UAW asked you to testify?

9 A No.

10 Q Exhibit 2 has an attachment with a numbered
11 list, the last page of the exhibit. The 9th item of
12 the list reads, "The level of post-retirement health
13 benefits demanded currently by the UAW in collective
14 bargaining negotiations." Did the UAW ask you to
15 testify about this topic?

16 A Yes.

17 Q Did the UAW ask you to testify about any other
18 topic on the list?

19 A No.

20 Q What is the basis for your knowledge about
21 topic nine?

22 A I'm an international representative for the

1 UAW which as part of my responsibility is negotiating
2 labor agreements.

3 **Q For what region are you an international**
4 **representative?**

5 A I'm an international rep for the international
6 union. I don't belong to any specific region.

7 **Q I need you to help me understand that. As an**
8 **international representative, what areas of the UAW do**
9 **you have responsibility for?**

10 A IPS, independents and parts supplier sectors.
11 I'm actually an administrative assistant is my actual
12 title, but I'm known as an international
13 representative. Everybody that works for the
14 international union has the title of international
15 representative. We just some of us have different
16 subtitles. Like we have vice presidents. We have
17 presidents. We have lawyers -- well, none of these
18 guys, but we have lawyers. They're called
19 international reps.

20 I happen to be an administrative assistant. I
21 oversee the national IPS department for the UAW and my
22 boss is the vice president. She actually is the

1 director and I work for her.

2 **Q Who is your boss?**

3 A Vice President Cindy Estrada is my direct
4 supervisor or my vice president. We really don't like
5 the boss term, but she tells me what to do. She's my
6 leader.

7 **Q I understand. Ms. Estrada, is she -- it's my**
8 **understanding that some vice presidents have**
9 **responsibility for certain areas of industries or**
10 **employers that the UAW represent employees at. Does**
11 **Ms. Estrada have a particular area for which she's**
12 **responsible?**

13 A Yes. She's the director of the national IPS
14 department, as well as the director of the women's
15 department, as well as the director of health care
16 servicing. She also oversees the state workers, State
17 of Michigan.

18 **Q How long have you been an assistant to Ms.**
19 **Estrada?**

20 A Since she became vice president in 2010, June
21 of 2010.

22 **Q Were you employed by the UAW before that?**

1 A Yes, I was.

2 Q What was your position at the UAW before that?

3 A I was the administrative assistant over the
4 international IPS department for then Vice President
5 Bob King.

6 Q For how long did you assist Mr. King?

7 A As his administrative assistant for four
8 years. The previous years before that, I was his
9 assistant director. So I worked for Bob for eight
10 years, two different roles.

11 Q From 2002 to 2010 when you were working with
12 Mr. King, your area of responsibility was the national
13 IPS department?

14 A Yeah. I just wasn't the administrative
15 assistant for all eight.

16 Q Were you employed by the UAW prior to 2002?

17 A Yes, I was.

18 Q And what was your job at the UAW prior to
19 2002?

20 A I was an assistant director in the national
21 IPS department for then Vice President Elizabeth Bunn.

22 Q Is that B-O-N-N?

1 A B-U-N-N.

2 **Q How long have you been either an**
3 **administrative assistant or an assistant director to**
4 **the director of the national IPS department?**

5 A Since -- to the best of my recollection, since
6 probably February of 2000 I think is when I got
7 promoted to AD.

8 **Q Were you in the national IPS department before**
9 **then?**

10 A Just for a very short period of time as an
11 international rep. I came down to Detroit in December
12 of 1999 to Solidarity House.

13 **Q In your role as either an assistant director**
14 **or as an administrative assistant in the national IPS**
15 **department, what sorts of things would you do to**
16 **educate yourself on the issues of retiree health care**
17 **benefits?**

18 A Read contracts I guess.

19 **Q Would you attend any outside seminars?**

20 A No.

21 **Q Did the UAW have a practice of offering any**
22 **internal seminars on retiree health care benefits?**

1 A No.

2 Q Did you subscribe to any magazines or journals
3 that dealt specifically with the issue?

4 A No.

5 Q Would you read contracts after they were
6 entered or as part of the negotiation process?

7 A As part of the negotiation process.

8 Q So sometimes would you read draft contracts?

9 A I'm not sure if you would call them draft
10 contracts, but draft language as a result of being in
11 negotiations, yeah.

12 Q Would you consult on a regular basis with the
13 Social Security department about retiree health care
14 benefits?

15 A I don't believe so. I mean I'm not sure what
16 you mean by regular. Have I had conversations with
17 them before? Yes.

18 Q Outside of your personal experience as a
19 long-term international rep for the national IPS
20 department, is there any other basis today for
21 the -- basis for the testimony that you're going to
22 provide today?

1 A I don't believe so.

2 Q Outside of your counsel, did you interview
3 anyone?

4 A Interview anyone pertaining to what?

5 Q To the testimony, to get information, to be
6 able to testify today?

7 A I talked to one of our in-house attorneys.

8 Q I'm not interested in your conversations with
9 either the UAW's in-house or outside counsel. I'm just
10 trying to understand what the sources of knowledge are
11 in addition to your personal experience.

12 A I don't believe there is any other than my
13 personal experience. I've done this job for many
14 years.

15 Q I didn't mean to suggest that your experience
16 wasn't substantial.

17 A I'm not indicating that you did. I just --

18 Q Did you bring your curriculum vitae with you
19 today?

20 A I don't understand.

21 Q Okay. Did you bring your CV or resume with
22 you?

1 A No.

2 Q Okay.

3 A What's a CV?

4 Q It's a two-letter abbreviation for curriculum
5 vitae.

6 A No.

7 Q Fancy Latin term. Where did you attend
8 secondary school?

9 A Secondary school as in college?

10 Q High school.

11 A High school. Clawson High School.

12 Q That's C-L-A-U --

13 A No, C-L-A-W-S-O-N. That's in Michigan.

14 Q In what city is Clawson High School?

15 A In Clawson.

16 Q When did you complete your education at
17 Clawson High School?

18 A I graduated in 1975.

19 Q Did you attend any other school after Clawson?

20 A Yeah. I've taken some classes at Oakland
21 Community College.

22 Q Have you received a degree from Oakland

1 **Community College?**

2 A No.

3 **Q In what area or areas were the classes that**
4 **you took?**

5 A Mostly basic, but some business.

6 **Q Basic?**

7 A Fundamentals, math, English.

8 **Q Not computer programming?**

9 A No. Actually, I did take one computer
10 programming class, you know, basic, back when they
11 wrote with floppy disks. This is going back a while.

12 **Q I actually remember the computer language**
13 **Basic.**

14 A We had to write something about an ice cream
15 place and figured out if they sold 75 sundaes, how much
16 ice cream they used, basic programming.

17 **Q Have you attended any other classes?**

18 A No.

19 **Q Because your testimony is being recorded, it's**
20 **important that you try not to interrupt or speak over**
21 **myself, Mr. Macey or Mr. Radtke. Do you understand**
22 **that?**

1 A Yes.

2 Q For similar reasons, you have to provide
3 verbal responses. Nodding your head or shaking your
4 head or saying uh-huh or um-hmm won't register very
5 well with the court reporter. Do you understand that?

6 A Yes.

7 Q If you want a break, let me know, but I ask
8 that you answer any question that is pending before
9 breaking. Do you understand that?

10 A Yes.

11 Q And finally, if you do not understand a
12 question, please let me know and I will do my best to
13 ask the question better if I can do so. Do you
14 understand that?

15 A Yes.

16 Q Mr. Isaacson, does the UAW have any internal
17 policies regarding the negotiation of retiree health
18 care benefits?

19 A No.

20 Q Does it have any guidance that it provides to
21 negotiators about retiree health care benefits?

22 A No.

1 **Q So would it be correct to say that negotiators**
2 **dealing with employers are guided by their own**
3 **experiences and background in negotiating retiree**
4 **health care benefits?**

5 A In most cases, but we have different
6 departments that, you know, when things are outside our
7 expertise we might lean on. Like you mentioned the
8 Social Security department. If I'm in bargaining and
9 somebody wants to change some provider list, you know,
10 I might go to the Social Security department to give me
11 a disruption report, you know, things that are beyond
12 my expertise that I don't have the ability to get.

13 **Q Does the Social Security department ever**
14 **provide any, not specific to that negotiation perhaps,**
15 **but any overarching guidance about retiree health care**
16 **benefits?**

17 A No.

18 **Q Is there anything else that a union**
19 **negotiating team would have to guide it in negotiating**
20 **retiree health care benefits?**

21 A No.

22 //

1 (Exhibit No. 30 was marked for
2 identification.)

3 Q Handing you what's been marked as Exhibit 30,
4 which is titled at the top Health Care Resolution 2007
5 Skilled Trades Conference, are you familiar with this
6 document?

7 A No. Explain to me what you mean by familiar.

8 Q Have you seen it before?

9 A Not this particular document, no.

10 Q Are you suggesting that you've seen --

11 A I've seen health care resolutions made for our
12 conferences before.

13 Q This references a skilled trades conference?

14 A Yes.

15 Q How often does the skilled trades conference
16 convene?

17 A They used to convene every year, but somewhat
18 less than that now.

19 Q Skilled trades are recognized as an area
20 that's often negotiated separately that has very
21 specific rules and things like that. Are there other
22 conferences in which a health care resolution would be

1 **made?**

2 A At our constitutional convention.

3 **Q Is there a similar conference for benefits?**

4 A No.

5 **Q Okay. On page five of this resolution,**
6 **there's a list of what the focus in this round of**
7 **bargaining should be. Do you have any idea what the**
8 **round of bargaining would be that's being referred to**
9 **in the resolution?**

10 A I don't know specifically, but I would assume
11 it was Big Three bargaining possibly.

12 **Q The skilled trades -- have you attended**
13 **skilled trades conferences before?**

14 A Yes.

15 **Q Do they deal with employers other than the Big**
16 **Three?**

17 A Yes.

18 **Q Okay. The items of focus include rejecting**
19 **employers' attempts to eliminate or reduce retiree**
20 **health care coverage. Do you see that?**

21 A Yes.

22 **Q In your experience, what consideration does**

1 **the economic climate play in achieving that focus?**

2 A I'd say it has a lot to do with it.

3 **Q How so?**

4 A Well, if an employer doesn't have any money,
5 then they might have to talk about future retiree
6 health care.

7 **Q You understand this to be describing**
8 **elimination or reduction of future retiree health care**
9 **coverage?**

10 A I don't know that.

11 **Q Your last answer said sometimes you would have**
12 **to talk about --**

13 A Yeah, because --

14 **Q Right. Are there situations in which the**
15 **economic climate could be such that you would discuss**
16 **current retirees' benefits?**

17 A Yes.

18 **Q What sort of situations would generate, would**
19 **counsel a negotiator to discuss current retiree health**
20 **care benefits?**

21 A Bankruptcy.

22 **Q Anything else?**

1 A No.

2 Q Are there considerations besides economic ones
3 that affect the focus of rejecting attempts to
4 eliminate or reduce retiree health care coverage?

5 A In general?

6 Q Yes.

7 A I believe so.

8 Q What are those?

9 A I think contract language.

10 Q How does contract language affect a
11 negotiator's attempts to reject employers' attempts to
12 eliminate or reduce health care coverage?

13 A I guess the contract language, if it's -- I
14 guess it comes down to whether it's a vested benefit or
15 not.

16 Q And what would you look -- what does a
17 negotiator look at to make that assessment?

18 A Contract language, pension plans, health care
19 agreements.

20 Q The prior contracts?

21 A Possibly prior contracts. I mean mostly the
22 one you're currently dealing with.

1 Q When you say the one you're dealing with, you
2 mean the one immediately prior to the one you're
3 negotiating?

4 A No. If you're negotiating your agreement,
5 there's an agreement in effect at that point in time.

6 Q I think I understand. I think we're saying
7 the same thing.

8 A Okay.

9 Q Because the one, when you're negotiating the
10 next contract, you're operating under the current
11 contract?

12 A Yes.

13 Q Got it. One of the other items in the list of
14 what the focus should be is providing continued health
15 care coverage in the event of full or partial plant
16 closings. Are there situations in which a plant
17 closing might not result in continuation of the health
18 care benefits?

19 A Yeah. If there's a plant closing and you've
20 terminated the agreement as a result of that plant
21 closing and there's no agreement to do any continuation
22 of health care for the active employees, yeah.

1 Q So the goal might be to continue it, but there
2 might be factors that cut against the UAW's ability to
3 achieve the goal?

4 A Yes.

5 Q The last item of focus that I wanted to ask
6 you about is the second to last one which says updating
7 and expanding coverage to include new and appropriate
8 medical procedures and technologies. When trying to
9 achieve that focus in bargaining, what role does the
10 cost of those new procedures or technologies play?

11 A I guess a pretty big role. I mean when you're
12 negotiating a contract, you're negotiating an entire
13 agreement, so every piece of that has something to do
14 with another piece. In other words, if you want to
15 improve -- let's say you want to add doctor's office
16 calls. If that's going to be -- the cost of adding a
17 doctor office call to the health care plan is going to
18 make it so you don't get a wage increase because
19 there's no money left for a wage increase, then you're
20 going to have to make a judgment call based on what the
21 membership's priorities are.

22 Q So sometimes negotiators have to make choices

1 **about the economic components of the agreement they're**
2 **negotiating?**

3 A Well, negotiators and memberships. I mean our
4 contracts are ratified by our members, so they have the
5 ultimate decision.

6 MR. MACEY: Excuse me, Josh, what number was
7 this document?

8 MR. ROGACZEWSKI: 30.

9 MR. MACEY: 30.

10 (Exhibit No. 31 was marked for
11 identification.)

12 BY MR. ROGACZEWSKI:

13 Q **You're being handed what's been marked as**
14 **Exhibit 31, which is a February 2nd, 2006 E-mail from**
15 **Linda Ewing to Paul Krell and Alan Reuther. Are you**
16 **familiar with this document?**

17 A No.

18 Q **Who is Linda Ewing?**

19 A Linda Ewing is the director of the UAW
20 research department.

21 Q **Who's Paul Krell?**

22 A Paul Krell used to work for the UAW public

1 relations department. I believe he was the director,
2 emphasis on I believe.

3 **Q I understand. Who is Alan Reuther?**

4 A Alan Reuther was the legislative director for
5 the UAW. Again, I'm not sure if his actual title was
6 director but --

7 **Q There's a cc listed at the bottom, Chuck**
8 **Gayney. Who is Mr. Gayney?**

9 A Chuck Gayney was the director of the UAW
10 Social Security department.

11 **Q The third paragraph of Ms. Ewing's E-mail**
12 **makes this observation. "To me, this" -- she's writing**
13 **about a decision that Nissan has made regarding health**
14 **care benefits and she observes, "To me, this reinforces**
15 **the point that legacy costs aren't a matter of union**
16 **versus nonunion or the lumbering, inefficient," quote,**
17 **"irrelevant," unquote, "Big Three versus the nimble**
18 **transplants or any of that crap. It's about new**
19 **entrants versus older firms and as the new entrants**
20 **age, it's becoming an issue for them, too. Hence the**
21 **need for a policy response."**

22 Do you know when she uses the word entrants,

1 to what she's referring?

2 A No, I don't.

3 Q Is that a term of art used within the UAW?

4 A I've never heard it before.

5 Q Okay. She mentions the need for a policy
6 response. Does the term policy response have a
7 particular meaning within the UAW?

8 A No.

9 Q You're not aware of any policies regarding
10 retiree health care benefits?

11 A No.

12 (Exhibit No. 32 was marked for
13 identification.)

14 Q You've been handed what's been marked Exhibit
15 32 which appears to be a resolution at a convention,
16 offered at a convention in 2006 entitled National
17 Health Care. Are you familiar with this document?

18 A I'm not familiar with this particular
19 document, no.

20 Q Do you know what convention this was offered
21 at?

22 A Well, based on what I'm looking at, I'm

1 assuming it was for the 2006 convention.

2 **Q Was it a particular type of convention?**

3 A I'm assuming it was the 2006 constitutional
4 convention, but it's a pure assumption on my part.

5 **Q Was there a constitutional convention in 2006?**

6 A I think there was.

7 **Q Did you attend the constitutional convention**
8 **in 2006?**

9 A Yes.

10 **Q Do you recall a resolution at that convention**
11 **on national health care?**

12 A I'm sure there was. Usually at every
13 convention we do a resolution on national health care,
14 something we believe in in our organization.

15 **Q How would you characterize the organization's**
16 **beliefs regarding national health care?**

17 A We believe it's important, Walter Reuther,
18 going back that far.

19 **Q When you talk about national health care, to**
20 **what are you referring?**

21 A Personally, I'm referring to single payer.

22 **Q Is that the UAW's position?**

1 A No, I think the UAW's position is that
2 everybody in this country should have health care. It
3 should be a right, not a privilege.

4 Q On page seven, which is the second page of
5 this document, the resolution states in the first
6 paragraph under retiree health care, "An increasing
7 number of employers are reneging on career long
8 promises by reducing or eliminating retirees' benefits.
9 For example between 1988 and 2004, the number of large
10 employers (more than 200 employees) offering retiree
11 health care declined from 66 percent to 36 percent."

12 How does that trend impact the UAW's
13 bargaining for retiree health care benefits?

14 A It makes it more difficult.

15 Q Why?

16 A Because less people are offering it.

17 Q Does it impact the UAW's -- does it impact the
18 UAW's bargaining regarding, if any, regarding current
19 retiree health care benefits?

20 A I don't believe so.

21 Q Is that statistic dropping from 66 percent to
22 36 percent, is that a statistic that was well known

1 **within the UAW in that time frame?**

2 A I'm not sure if the statistic was well known.

3 The event was well known.

4 Q **The event, you mean -- do you mean the trend?**

5 A The trend.

6 Q **Of employers, the number of employers wanting**
7 **to provide retiree health care benefits dropping?**

8 A I think that was known in the UAW.

9 Q **Does that trend persist today?**

10 A Yes.

11 (Exhibit No. 33 was marked for
12 identification.)

13 Q **You've been handed what's been marked as**
14 **Exhibit 33 which is a two-page document entitled**
15 **Benefits Overview. Are you familiar with this**
16 **document?**

17 A No.

18 Q **Does this look like a document created by the**
19 **UAW?**

20 A Yeah, it looks like it.

21 Q **What makes you say that it looks like a**
22 **document created by the UAW?**

1 A Well, because one, a benefits overview; I see
2 a name down here, Jim Shake of the Social Security
3 department staff. He's a UAW guy, works in our Social
4 Security department, so that's why I gave you that
5 answer. And then again, International UAW on the
6 bottom.

7 **Q Outside of the Bates number at the bottom,**
8 **what about this document -- is there anything else**
9 **about this document that suggests --**

10 A No. The page that says benefits overview
11 because I've seen similar type documents not on
12 benefits, but just on overviews and things of that
13 nature and again, as I said, Jim Shake's name on there.
14 So I'm assuming it's got something to do with us
15 because he's an employee of the international union.

16 **Q What about the use of the subtitles in the**
17 **left hand column, is that a style employed by the UAW**
18 **or any one of the departments?**

19 A This here you mean?

20 **Q Yes.**

21 A No, I've never seen that. That's the
22 only -- no, I'm not used to that.

1 Q This is part of -- appears to be a part of a
2 larger document. Page seven, the second page -- the
3 page numbered seven, the second page of the document
4 has a series of bullet points with data from the Segal
5 Health Plan Cost Trend Survey. Do you know what the
6 2000 -- do you know what the Segal Health Plan Cost
7 Trend Survey is?

8 A No, but I'm assuming it's -- no, I don't. I'm
9 assuming it's something Segal did.

10 Q Do you know who Segal is?

11 A Yes.

12 Q Who is Segal?

13 A An actuarial firm.

14 Q Is Segal an actuarial firm engaged by the UAW?

15 A I don't know if they're engaged today. I'm
16 assuming we probably have used them in the past. We've
17 used several different actuarial firms, outside
18 consultants.

19 Q Do you recall instances in which the UAW has
20 used the Segal firm?

21 A Not specifically, no.

22 Q Each of these bullet points suggests that the

1 costs of medical benefits is increasing and it
2 addresses it for overall plan costs, prescription drug
3 costs, the annual cost of providing the coverage, a
4 specific bullet about retirees and health care as a
5 share of GDP. Was it well understood within the UAW
6 the issue in this time frame, sort of 2009 and to the
7 present, that the costs of health care benefits was
8 increasing significantly enough that it was an issue in
9 bargaining?

10 A Yeah.

11 Q How does the increasing cost of health care
12 benefits affect the bargainers and what they demand
13 about retiree health care benefits in negotiations?

14 A I think it's like any other bargaining topic.
15 You know, when you're bargaining a labor agreement,
16 there's some amount of money the employer is willing to
17 put towards that contract and as a union, we would like
18 that -- call it the pie -- we would like the pie to be
19 as big as possible and our goal is to make sure
20 we -- as a bargainer, your goal is to understand how
21 big that pie is and then of course to split it up
22 according to the wishes of the membership.

1 (Exhibit No. 34 was marked for
2 identification.)

3 (Short recess.)

4 BY MR. ROGACZEWSKI:

5 Q You've been handed what's been marked as
6 Exhibit 34 which is a power point presentation entitled
7 The Patient Protection and Affordable Care Act:
8 Education and Resources for International
9 Representatives. Are you familiar with this document?

10 A No.

11 Q Do you recall a presentation by the Social
12 Security department in December of 2010 about PPACA?

13 A No.

14 Q As an international representative, were you
15 provided with any resource material about PPACA?

16 A No.

17 Q Who is Sara Doyle?

18 A She is a senior benefit consultant in the UAW
19 Social Security department.

20 Q She's currently with the UAW?

21 A Yes.

22 Q On the fifth slide, which is labeled General

1 **Content -- I should make clear when I use the**
2 **abbreviation PPACA, do you understand to what I'm**
3 **referring?**

4 A I'm assuming you're referring to the pension
5 or the whatever you just said it was on here, Patient
6 Protection and Affordable Care Act.

7 Q **Do you know what the Patient Protection and**
8 **Affordable Care Act is?**

9 A I'm assuming it's health care reform.

10 Q **It's sometimes referred to as Obama care?**

11 A Yeah, health care reform. We don't use that
12 term but --

13 Q **I just want to make sure we're on the same**
14 **page. On the slide that's labeled General Content, the**
15 **presentation states suggested bargaining**
16 **tips/strategies. Do you recall any suggested**
17 **bargaining tips or strategies that the UAW provided in**
18 **light of PPACA?**

19 A Well, I know there's a lot of discussion about
20 companies have concerns over how PPACA is going to
21 affect their health care plans that they provide for
22 the employees. So I know there's been discussion and

1 there's some suggested contract language about language
2 you put in, how you will deal with national health care
3 if it affects the current plans.

4 **Q What do you understand the employers' concerns**
5 **to be?**

6 A Well, if they start -- let's say the federal
7 government gets smart all of a sudden and starts
8 providing health care to all its citizens like they do
9 in Canada. I don't think the employers would still
10 want to be on the hook for thousands of dollars of
11 coverage.

12 You know, and I'll give another one that comes
13 to mind is they extended how long people -- it used to
14 be you could only keep your kids insured until age 21
15 and they had to be in school. So that changed as a
16 result of Obama care. Now we get them until they're
17 age 26. So I think employers -- you know, some
18 contracts had to be changed to deal with that because
19 if the language said, you know, under SPD or health
20 care provision said something like you're only going to
21 be insured until 21, again, now it's illegal. So
22 that's contrary to what the law is, so the contract

1 would have to be changed to address those types of
2 things.

3 **Q Does the UAW have preferred positions on the**
4 **first issue, which I'm going to call coordination for**
5 **lack of a better word, between any national health care**
6 **plan that is devised and the existing employer provided**
7 **plan? Does the UAW have a preferred position on how**
8 **that coordination occurs?**

9 A Well, our preferred position is no loss, no
10 gain.

11 **Q What do you mean by that?**

12 A We mean that if there's something that's
13 changed as a result of the health care reform, it
14 shouldn't be a windfall for either party as a result of
15 that change.

16 **Q Do you have an understanding of -- in your**
17 **experience, how have employers negotiated this issue?**

18 A What issue?

19 **Q The issue of coordination.**

20 A They usually propose some type of language
21 that addresses national health care, some generic
22 version or some language that talks about it.

1 **Q Do employers negotiate from a no loss, no gain**
2 **position?**

3 A Well, you would hope that's where you end up,
4 yeah. I mean employers do a lot of different things,
5 you know. I mean they say, "We're not going to offer
6 prescription drugs because there's a part D." I mean
7 that -- God only knows what employers are going to do.
8 But again, I guess if you're looking at an overall
9 position, no loss, no gain is probably the best way to
10 resolve it we believe. I mean there's a lot of
11 unknowns.

12 **Q Did the no loss, no gain position predate**
13 **PPACA?**

14 A I don't believe so. That's my -- that's not a
15 position of the UAW I don't think. That's more kind of
16 like our concept. I mean that's the way we do it or at
17 least I do it when I'm in bargaining. So does it
18 predate PPACA? Yeah, it predated in a lot of different
19 areas, but health care was -- this health care reform
20 was the first time that there's been any significant
21 changes in health care law in this country that I know
22 of. I don't recall any significant changes other than

1 that.

2 Q You don't recall any specific reference
3 material about the Health Care Reform Act being
4 provided to international reps?

5 A No. It's -- the answer is no.

6 (Exhibit No. 35 was marked for
7 identification.)

8 Q You've been handed what's been marked as
9 Exhibit 35 which is a -- it appears to be a draft of
10 some sort. It's labeled health care at the top. Are
11 you familiar with this document?

12 A No, I'm not.

13 Q Do you happen to recognize the handwriting on
14 the document?

15 A No, I don't.

16 Q On page six of the document, in the section
17 titled Legacy Health Care Costs, near the bottom, the
18 beginning of the last paragraph, the document reads,
19 "During the coming year, the UAW will be working with
20 other unions and older manufacturing companies in
21 support of proposals that would provide some relief
22 for," quote, "legacy," unquote, "health care costs."

1 Do you have an understanding of what legacy
2 health care costs are?

3 A Yes.

4 Q What is your understanding of the term legacy
5 health care costs?

6 A Retiree health care.

7 Q Current retiree health care costs or future
8 retiree health care costs?

9 A Could be both.

10 Q Okay.

11 A I mean if it's future, I don't think it's
12 legacy yet.

13 Q Is it referring to current?

14 A Yeah, current. Well, again, it's going to be
15 futures as current so -- I mean eventually, everybody
16 is going to retire.

17 Q Okay. In your experience, what kind of
18 proposals does the UAW deploy to provide relief for
19 legacy health care costs?

20 A I'm not sure there's a whole lot of proposals
21 we do in that type of area. I'm not sure what they're
22 referring to when they say companies in support of

1 proposals that would provide relief. I'm not sure what
2 proposals they're referring to.

3 Q Frankly, I'm not either. I'm asking in your
4 experience. In your experience, have you dealt with,
5 in bargaining, legacy health care costs?

6 A Yes.

7 Q And in your experience, has the union made
8 proposals that would provide relief for those costs?

9 A Yes.

10 Q What kind of proposals are we talking about?

11 A We might do -- there might be some caps. I'm
12 not sure if you're familiar with health care caps,
13 different things, cost containment measures. I mean
14 there's a lot. It depends on the environment that
15 you're negotiating in.

16 Q What about the environment counsels one way or
17 the other?

18 A I'm not following that question.

19 Q What factors in the environment are considered
20 in determining how you attack the legacy costs?

21 A The contract itself.

22 Q You said the first type of proposal you

1 mentioned was health care caps. Would those be caps on
2 existing retirees?

3 A I think it varies based on the contract.
4 There's no one size fits all.

5 Q So these proposals can impact, depending
6 on -- I mean every negotiation is different. I
7 understand that. But in some negotiations, dealing
8 with legacy health care costs could involve negotiating
9 something for current retirees?

10 A Yes.

11 Q The same for cost containment issues?

12 A Yes.

13 Q Are there any other types of proposals that in
14 your experience are used to address legacy retiree
15 health care costs?

16 A Not right off the top of my head, no.

17 Q In your experience, are those proposals
18 successful?

19 A Again, it depends on the contract that you're
20 dealing with at that time. That really dictates what
21 you can or can't do when it comes to retiree health
22 care.

1 Q And when you say the contract, you mean the
2 one that's still in place while you're negotiating the
3 next one?

4 A Well, it could be past ones. It could be the
5 contract the people retired under. I mean again, one
6 size doesn't fit all when you're talking retiree health
7 care.

8 Q What other things go into the calculus besides
9 the contract?

10 A Well, the first question that I look at is is
11 it a vested benefit or not.

12 Q What if it is?

13 A Then I don't make changes.

14 Q What if you conclude that it's not?

15 A If I conclude that it's not a vested benefit,
16 then you take a look at what the changes are, what the
17 rationale is, does it make sense to do it, you know,
18 all the things that you -- all the things you think
19 about or use to determine like any other contract
20 change, you know, is it in the best interest of the
21 membership, is it in the best interest of the retirees,
22 is it in the best interest of the corporation. There's

1 a whole host of decision making that goes on.

2 Q And I'm trying to understand that
3 decision-making process.

4 A Sure.

5 Q Is there any -- I'll ask that a little later.

6 On the next page of this document, it says in
7 the middle of that paragraph where it says finally, it
8 says finally, and this is --

9 A Middle of the first paragraph?

10 Q The paragraph that's continuing from the page
11 before.

12 A Are we talking about right there, finally?

13 Q Yes. "Finally, the UAW supports proposals to
14 provide retiree health legacy cost relief to companies
15 in exchange for commitments to invest in the domestic
16 production of advanced technology vehicles and their
17 key components." Do you have an understanding of what
18 that sentence means?

19 A No, I do not.

20 Q Sometimes in bargaining, if you've concluded
21 that it's not a vested benefit and you have to consider
22 the myriad of factors, do you consider what's best for

1 **the retirees separately from what's best for the**
2 **members?**

3 MR. MACEY: Let me interpose an objection just
4 to keep the record straight. To the extent that your
5 question is predicated on the assumption that the word
6 proposal in this document relates to bargaining
7 proposal, I'm going to object because I think it's
8 inconsistent with the language of the document. To the
9 extent you're just asking him about bargaining
10 proposals, I don't have a problem. So does your
11 question -- is your question predicated on the
12 assumption that this document is using proposals in the
13 sense of bargaining proposals as opposed to legislative
14 proposals?

15 MR. ROGACZEWSKI: I don't think it presupposes
16 one way or the other. At this point, I've broadened it
17 sort of away from the document.

18 MR. MACEY: Away from the document.

19 MR. ROGACZEWSKI: Because he didn't know what
20 the sentence meant. So --

21 MR. MACEY: That's fine.

22 THE WITNESS: Okay. Ask me again, please.

1 BY MR. ROGACZEWSKI:

2 Q In evaluating a bargaining proposal that would
3 impact -- that would provide relief for legacy retiree
4 health care costs, do you consider separately the
5 interests of the retirees and the interests of the
6 members or do you consider those interests at the same
7 time?

8 A And you qualified this and said it wasn't a
9 vested benefit, correct?

10 Q Yes.

11 A If it's not a vested benefit, I look at the
12 entire group, what it means to the retirees, what it
13 means to the actives and also what it means to the
14 company. There are multiple parties involved in
15 negotiations.

16 Q So in your experience, there are occasions in
17 which a bargainer trades gains in one area or for one
18 set of constituents for relief in others?

19 A I'm not sure it's one set of constituents,
20 because as I said, you would hope everybody would be a
21 retiree at some point in time. So what affects this
22 group of retirees today could be affecting you tomorrow

1 because you're a retiree tomorrow. So we look at it as
2 a whole and yes, there's always some people, you ask
3 our membership, there's always somebody that doesn't
4 like something about a contract. We very rarely ratify
5 100 percent. So I'm sure somebody doesn't agree with
6 something. But as a bargainer, yeah, I look at the
7 entire package and try to make the best decision
8 possible.

9 **Q And if you're doing that, you only do that**
10 **when it's not a vested benefit?**

11 **A If it's a vested benefit, your ability to make**
12 **changes and stuff are limited.**

13 **Q Do you have an understanding of how it's**
14 **limited?**

15 **A I don't make changes if it's a vested benefit.**
16 **I just don't. I just don't do it.**

17 **Q Do you have an understanding of what a health**
18 **retirement account is?**

19 **A HRA, yes.**

20 **Q What do you understand an HRA to be?**

21 **A Well, actually an HRA is a health**
22 **reimbursement account, but a health retirement account,**

1 I'm assuming that's when somebody puts money away to
2 provide retiree health care. That's what I'm assuming
3 it is.

4 **Q Does the UAW oppose the use of HRAs in company**
5 **health care plans?**

6 A If we're talking about a health retirement
7 account to provide retiree health care, I don't think
8 we oppose it. We don't think it's the best vehicle,
9 but if that's the only vehicle. Like the plan I come
10 from, we didn't have health retirement accounts, but
11 the company paid money as a stipend towards your
12 retiree health care. Now, we wanted them to pay for
13 retiree health care. We just weren't successful. Now,
14 when you say do I support it, well, yeah, I support it
15 because I agreed to it.

16 **Q I'm asking you as the UAW's designee.**

17 A So I guess the answer is depending on the
18 situation, would the UAW support it? As I stated
19 earlier, we would like health care to not be an issue
20 in collective bargaining. That's the UAW's position.

21 **Q What about if the HRA is in conjunction with a**
22 **high deductible health care plan?**

1 A Now I think you're talking about a health
2 reimbursement account. I think those go with the high
3 deductible plans and again, I'm not an expert on the
4 acronyms, but I believe if you have a high deductible
5 plan, you can have employers and employees can put
6 money in that can be used to pay for the deductibles
7 and the co-pays and the co-insurances, yes.

8 **Q And does the UAW have a position on the use of**
9 **that instrument?**

10 A We're not in favor of them, but we don't have
11 a staunch written position saying we're totally opposed
12 to them. Again, it's every bargaining. We would
13 rather not do it, but with most bargaining, again if
14 that's what the terms and conditions dictate you have
15 to do, then you do it. We have contracts that have
16 high deductible plans in them.

17 **Q Does it matter if the high deductible plan is**
18 **one of at least two choices for a participant?**

19 A Again, it's not a steadfast rule. I think
20 that would be something you would take a look at, but
21 again, I'm not going to say because the international
22 doesn't come out with an administrative letter or

1 anything like that that says, "Here's the position and
2 if you do something different than this, you're going
3 to be fired." We don't work that way. But if there's
4 a high deductible plan and a traditional plan, I would
5 personally as a negotiator be opposed to it because I
6 believe it drives adverse selection.

7 **Q What do you mean by it driving adverse**
8 **selection?**

9 A I mean the people that are healthy that don't
10 care about the deductible being \$1500 a year will flock
11 to that plan. They will choose that option because it
12 probably has less of a premium share or maybe it's free
13 and they would stay away from the plan that let's call
14 it a low deductible plan. And so in other words, the
15 sick folks go into the low deductible plan or the
16 people that need insurance and then the adverse
17 selection is the plan with all the people that need the
18 insurance. We'll call them sick folks. Premiums go up
19 exponentially. Where all the healthy folks are in
20 here, you get a bad risk rate.

21 **Q In your experience, are there situations in**
22 **which you would recommend the use of a health**

1 **reimbursement account?**

2 A I would recommend -- there are situations
3 where I would recommend a contract where that was a
4 component of it.

5 **Q You would never recommend it as the only**
6 **option?**

7 A I might as the only option. By a component of
8 it, I mean if I had to put a health reimbursement
9 account in, a high deductible plan in order to get
10 workers a raise, I might do that.

11 **Q And the factors that you would consider -- is**
12 **the calculus that you would undertake to determine**
13 **whether or not to recommend an HRA in that situation**
14 **similar to what you've mentioned several times today,**
15 **just sort of balancing the overall -- the complicated**
16 **package that is a contract?**

17 A Yes.

18 **Q I'm trying to find a simple way to say it.**

19 A I understand. You can't look at a
20 negotiation -- you can't focus on any one single piece
21 and I guess you could, but I don't think that's good
22 bargaining. I believe that if you're doing your job

1 right, you're looking at the contract in its entirety.
2 That includes every component of it and you make
3 decisions based on that.

4 A decision you make at one facility might not
5 be the same at another facility. Unfortunately, in
6 this country the way health care is, you and I can have
7 the exact same health care plan and you're Company A
8 and I'm Company B and your health care rates are a lot
9 more expensive than mine and we're plants on the same
10 street in the same city with the same exact health care
11 plan and based on our employer makeup and the
12 experience, health care could be entirely different
13 from one to the next. Geographic location comes into
14 play, a lot of different things.

15 Q If I use the term RRA or retiree reimbursement
16 accounts, do you have an understanding as to what that
17 means?

18 A No.

19 Q Are you aware of health care arrangements in
20 which no plan is provided, but participants get an
21 account in which money is placed by the employer on a
22 monthly basis that can be used for eligible health care

1 **expenses?**

2 A Are we talking employees?

3 **Q Retirees.**

4 A I believe in GM, Ford or Chrysler, new hires
5 have a health care account that the corporation is
6 putting money in I believe it's every hour they work.
7 Do they actually deposit it every hour? Probably not,
8 but you know what I'm saying. They put so much money
9 in every hour that's going to be used for health care
10 benefits once the employee retires.

11 **Q Do you know if in those plans, money is**
12 **continued, is deposited in those accounts after they**
13 **retire?**

14 A I don't believe so. I believe it's based on
15 hours worked.

16 **Q So you're aware of no instances in which an**
17 **account would be set up at the time of retirement for**
18 **example and money placed into it?**

19 A Personally, no.

20 **Q With respect to the health retirement**
21 **accounts, using the Big Three example that you**
22 **referenced, how do you as a bargainer evaluate**

1 **proposals on how much is placed per hour in that**
2 **account?**

3 A Well, since I personally didn't negotiate
4 them, I don't really know, but I can give you an
5 opinion based on being an international representative
6 of how I would do it.

7 **Q That would be helpful.**

8 A I would take a look at cost of the benefit,
9 available dollars in the contract and what my other
10 needs were in that set of negotiations, what other
11 needs do I have to try to fulfill and try to balance it
12 out so that as I think I've said several times, it's a
13 pie and you cut it up. So I can't put all the money
14 into this one pot and say, "Nobody that's working is
15 going to get -- you're not going to get a raise.
16 Sorry." So you have to take a look at the entire
17 negotiations.

18 **Q Would you agree with an assertion that as the**
19 **amount of money that's placed in the health retirement**
20 **account goes up, your comfort as a bargainer goes up**
21 **considering that there's no plan for those individuals?**

22 A My comfort as a bargainer as it relates to

1 what?

2 Q I'm not trying to mischaracterize your
3 testimony, but I think you said earlier that you would
4 prefer if the company paid for a plan rather than put
5 money in an account for you to use for health care
6 benefits. Am I stating that fairly?

7 A Yes.

8 Q Okay. What I'm suggesting is that as the
9 amount of money that's placed in that account is
10 increased, the concerns you have about not having a
11 plan are mitigated?

12 A I think that's probably a pretty accurate
13 statement, but on the same token, I think if you put
14 too much money in, you know, going along with your
15 train of thought -- you're saying the more money you
16 put in, the more comfortable I am. Well, there's some
17 point where if I'm putting money in this account and
18 it's like a pig and a poke to where, you know what I
19 mean, they're not going to need this much money to
20 provide a benefit, then yeah, then actually that's a
21 disservice. I'm spending money somewhere that I don't
22 need to I guess.

1 Again, one size doesn't fit all. There's a
2 lot of pieces of criteria you have to look at.

3 **Q I understand. How do you -- if someone were**
4 **to ask you in a bargaining situation at what point are**
5 **you putting too much into the health retirement**
6 **account, I mean how would you evaluate it? I**
7 **understand you can't give me a number, but how would**
8 **you evaluate what that number is?**

9 A One would be the age at which an employee can
10 retire would come into play. That might be the biggest
11 factor.

12 **Q And why would that be a factor?**

13 A Because as it relates to Medicare.

14 **Q The younger the age of the retiree, the higher**
15 **that number is that you would want, the higher the**
16 **useful number in the health retirement account?**

17 A Unfortunately, when there's no plan, you don't
18 know what number you're really talking about. We'll go
19 back to the example of the HRA or the health
20 reimbursement account, the high deductible plan. If an
21 employee was healthy and their spouse had good
22 insurance, I don't think you would care. If everybody

1 in your unit had spouses that worked somewhere else
2 that had good health care, you wouldn't care if that
3 number you were putting in was small. I mean it
4 wouldn't really matter because they're going to get
5 their health care from their wife.

6 Somebody that's healthy, they might be happy
7 with a high deductible plan. Somebody that's got a lot
8 of kids and still got, you know, children insured and
9 has health care problems, they would probably want that
10 health reimbursement account to, you know, every nickel
11 you can possibly put in there put in there. They might
12 be willing to do away with wage increases. They might
13 be willing to do away with less holidays to have more
14 money in that account. So I think there's a lot of
15 variables you have to take a look at. In general, the
16 more money you have in an account of course is going to
17 be better.

18 **Q Until you reach a point where it's less**
19 **likely --**

20 **A Where it's overkill, then you're talking about**
21 just a savings account. Then you're kind of like
22 throwing money in and might as well put it in a 401K.

1 And again I guess the question would be where is that
2 money stored at? Is it stored in a 401K vehicle? Is
3 that where the money is being put at? Then I guess it
4 doesn't really matter how much you put in there.

5 Now, if it's specifically earmarked to
6 reimburse for health care expenses, then you have to
7 take that into consideration. It's not quite that
8 simple.

9 Q I want to turn to Part D and prescription
10 drugs.

11 A Okay.

12 Q As --

13 A Drugs, great topic.

14 Q Is there -- does the UAW have any guiding
15 principles regarding the out-of-pocket costs to
16 retirees for prescription drugs?

17 A No.

18 Q So there's no ratio that bargainers look for?
19 I mean for example, wanting to ensure that the costs
20 don't exceed 10 percent of the pension amount or
21 something like that?

22 A No.

1 **Q Every negotiation has its own set of factors**
2 **and criteria?**

3 A Yeah. There was a time in our organization
4 where we used to do what we would call recommend health
5 care plans. The UAW would say this is an approved plan
6 years ago. Those days are no longer.

7 **Q Does the UAW have a position on the use of**
8 **formularies?**

9 A No.

10 **Q I'm sure they're not preferred, but you don't**
11 **have them?**

12 A I guess -- you know, you keep saying they're
13 not preferred. I'm not sure that that's the best way
14 to put it. What is preferred is that health care is no
15 longer an issue for the American public in the UAW's
16 position. That's what's preferred. Now, if we have to
17 have a formulary to keep a plan open and put a
18 formulary in for the active employees, even though we
19 don't like it, that happens to be our preference in
20 that set of negotiations. So when you say preferred,
21 it's hard to say that is -- you know, if we preferred,
22 it's everybody in America has health care and that's

1 the way it is. If we could prefer anything, it would
2 be that.

3 **Q Does your answer change if it's retirees in**
4 **formularies?**

5 A Again, I think it depends on how the contract
6 is, you know, the components of the agreement.

7 **Q If you conclude that a prescription drug**
8 **benefit is vested, how do you as a negotiator deal with**
9 **advances in the prescription drug marketplace?**

10 A Well, I think everyone has to have to take a
11 look -- you know, when you say it's a vested benefit, I
12 have to look at what's vested about it. I mean
13 depending on what the issue is, if it's a vested
14 benefit that has a list of drugs spelled out in the CBA
15 and that's what's vested and you've got drugs that are
16 available that aren't on that list, I guess you would
17 have to take that into consideration, but again, with a
18 vested benefit, I usually don't try to change anything.

19 **Q Up or down?**

20 A If we can improve the benefit, I'm not going
21 to say I wouldn't do it, but I don't see that happening
22 very often.

1 **Q The answer you gave about formularies, will it**
2 **be the same for dispensed as written provisions?**

3 A I think so.

4 **Q That sometimes you don't reject them out of**
5 **hand, but --**

6 A I don't reject anything out of hand. I'm an
7 open-minded person and I listen to it and a lot of
8 times retiree health care has an effect on active
9 employees.

10 **Q How so?**

11 A Well, just cost. It's cost to the
12 corporation. So I just don't ignore anything. I look
13 at things with an open mind and I look at it as an
14 entire picture and weigh the different criteria that's
15 in play in that set of negotiations and make decisions
16 based on that.

17 **Q It's all part of the pie?**

18 A I'm not so sure that the vested benefit is
19 part of the pie, so I don't want you to characterize
20 that --

21 **Q I actually wasn't trying to.**

22 A I don't think that's the case. But I think

1 every set of negotiations is unique in some manner.
2 Not everything is exactly the same. I mean you could
3 say that every contract has seniority provisions, every
4 contract has, you know, recall rights, every contract
5 has holidays, every contract has health care benefits,
6 but the magnitude of them or the extent of them are
7 different in every set of negotiations. The
8 well-being, the financial stability of the company is
9 different in every set of negotiations. I mean there
10 are just so many variables.

11 **Q Is there anything in the prescription drug**
12 **space that you would never recommend as it pertains to**
13 **retiree health care benefits?**

14 A I guess I would never recommend eliminating
15 them. I mean again, unless you say, "Here's the
16 contract, Rick. Take look at it," then I would have
17 to -- I could recommend a lot of stuff in retiree
18 health care based on what the agreement says. If it's
19 a vested benefit and it's let the retiree head where
20 they're going and somebody is proposing a reduction in
21 that benefit, no, I would never recommend that. I
22 wouldn't even address it.

1 (Exhibit No. 36 was marked for
2 identification.)

3 Q You have what's been marked as Exhibit 36
4 which is a January 2006 I'm going to call it a report.
5 It's labeled UAW International Executive Board Social
6 Security Department. That's on the cover page at
7 least. Are you familiar with this document?

8 A No, I'm not.

9 Q From time to time, does the international
10 executive board and the Social Security department put
11 out white papers? Have you seen documents similar to
12 this in your experience as an international
13 representative?

14 A I've seen documents similar to this because
15 what it looks like to me is a document that was
16 prepared by the Social Security department for the
17 international union executive board, that they gave a
18 report to the executive board and this is it.

19 Q Have you seen other reports like that?

20 A Unfortunately, I've written a few.

21 Q This document appears to match the format
22 of --

1 A Yeah, because the ones I write would say UAW
2 International Executive Board, Competitive Shop IPS
3 Department.

4 **Q Now, on the second page of the report, it has**
5 **a heading on it, Employers Attempting to Use Part D As**
6 **a Lever to Change Retiree Health Care Coverage, and I**
7 **apologize if I've already asked this, but does the UAW**
8 **have a position on coordination between Part D benefits**
9 **and employer-provided prescription drug plans?**

10 A If the employer provides retirees with a
11 prescription drug benefit, that's what we, and it's a
12 vested benefit, that's what we expect them to continue
13 to provide.

14 **Q What if it's not a vested benefit?**

15 A If it's not a vested benefit, then I guess the
16 door is open on what you're going to do.

17 **Q Have you seen -- in your experience, are**
18 **employers coordinating their prescription drug plan**
19 **with Part D?**

20 A In my experience, they're not coordinating
21 them -- let me back up. I believe a lot of them are
22 just they're credible plans, so they're applying for

1 their federal reimbursement because they're provided a
2 credible benefit.

3 **Q Credible?**

4 A Yeah, I think that's how they determine if
5 it's really -- you really need to ask somebody that
6 knows more about this than I do, but there's level of
7 prescription drug benefits that are provided. If it's
8 similar to what the Medicare provides, then it's
9 considered credible which means the federal government
10 will help offset that cost to the employer.

11 **Q So to make sure I understand the word you're**
12 **using, is it creditable or credible?**

13 A Credible.

14 **Q C-R-E-D-I-B-L-E?**

15 A I believe that's the actual term. And it
16 could be creditable, so don't hold me to it. Like I
17 said, I'm not an expert, but I know it has to do with
18 the level of benefits as it relates to the Part D
19 benefit the federal government pays for.

20 **Q The report at the bottom says that, "In short,**
21 **an employer cannot terminate or modify the rights of a**
22 **retiree/dependent who signs up for Medicare Part D,"**

1 **and with emphasis, "unless the right to do so is**
2 **contained in our negotiated health plan." Do you have**
3 **an understanding as to what that sentence means?**

4 A I'm assuming that it means that just because
5 somebody gets -- signs up for a Medicare Part D benefit
6 and they don't understand what they're signing up for
7 doesn't mean the employer can turn around and say, "Oh,
8 look, Rick Isaacson signed up for this Part D, so he
9 must believe we don't have to provide him prescription
10 drugs no longer." I assume that's what it means.

11 Q **Do you have an understanding as to how express**
12 **the health plan must be on this point?**

13 A No.

14 Q **Is it fair to say that if the benefit is not**
15 **vested, an employer could modify prescription drug**
16 **rights in the face of Part D if it's not vested?**

17 A If it's not vested, I believe yes.

18 Q **Would it be sufficient if the existing plan**
19 **requires coordination between itself and Part B?**

20 A I'm sorry? Come again with that.

21 Q **If the existing plan required coordination**
22 **between the plan and Medicare Part B --**

1 A The existing plan?

2 **Q The existing health care plan.**

3 A The existing retiree health care plan. Okay.

4 **Q If the existing retiree health care plan**
5 **required coordination with Medicare Part B, would that**
6 **allow the employer to require coordination with Part D?**

7 MR. MACEY: Objection; calls for a legal
8 conclusion.

9 You can answer.

10 THE WITNESS: I don't believe it would because
11 one is not the same as the other.

12 BY MR. ROGACZEWSKI:

13 **Q Would it matter to you when the Medicare Part**
14 **B coordination language was agreed to?**

15 A I don't think so.

16 **Q So if it predated Part D, that wouldn't impact**
17 **it from your perspective?**

18 A I don't believe so. I think if it was going
19 to impact it, you would be smart to write language that
20 said so.

21 **Q Is that a general principal you try to adhere**
22 **to?**

1 A I try to leave as much -- try to clear up as
2 many loose ends as possible, yes. I think that's good
3 bargaining.

4 (Exhibit No. 37 was marked for
5 identification.)

6 Q Before we go to the next document, do you
7 recall if any of the reports you prepared for the
8 international executive board dealt with retiree health
9 care benefits?

10 A No. No, thank God.

11 Q You've been handed Exhibit 37 which is a March
12 16th, 2004 report titled Retired Workers Statewide
13 Coordinating Committee Overview of Medicare
14 Prescription Drug Improvement and Modernization Act of
15 2003. Are you familiar with this document?

16 A No, I'm not.

17 Q Do you know -- do you know what the Retired
18 Workers Statewide Coordinating Committee is?

19 A No, actually.

20 Q Have you seen other documents in your
21 experience with the UAW that have this format? And by
22 format, I mean has a large page number in the upper

1 right-hand corner and in fact it doesn't really go
2 consecutively. You see, it goes one, two, three and
3 then four appears to be three pages long and then five,
4 six, seven. Is that a format with which you're
5 familiar?

6 A No, I'm not.

7 Q I'll ask you to turn to what I'm going to call
8 page 4C, the third page of document four.

9 A Okay. I'm there.

10 Q Okay. It says at the last point in this
11 document, this sub document, it says, "Subsidies
12 designed to slow the erosion of employer-provided
13 retiree health care coverage," and it's referring to
14 subsidies that are provided. I think this relates to
15 what you were talking about, the credit, the subsidies
16 for credible prescription drug plans.

17 A I believe so.

18 Q "Subsidies designed to slow the erosion of
19 employer-provided retiree health coverage," bullet one,
20 "Some employers will still drop or reduce coverage,"
21 and bullet two, "Some are more likely to," quote, "stay
22 in the game." In your experience, are there any

1 characteristics that are shared by employers that
2 despite being provided subsidies under Part D, try to
3 drop or reduce coverage for prescription drugs?

4 A No.

5 Q Are there any characteristics shared by those
6 that are staying in the game?

7 A Give me the question again as it relates to
8 this.

9 Q Sure. In your experience, are there any
10 characteristics that are shared by employers that to
11 use the language of this document are staying in the
12 game of prescription drug benefits despite getting a
13 subsidy?

14 A I don't think so.

15 Q In your experience, are you observing some
16 employers staying in the game of providing prescription
17 drug benefits and some employers reducing prescription
18 drug benefits even though they're getting a subsidy?

19 A I've got to believe there are some out there,
20 yeah.

21 Q Do you have a sense of which group has more
22 employers in it?

1 A No. No, I don't.

2 (Exhibit No. 38 was marked for
3 identification.)

4 Q You've been handed what's marked as Exhibit 38
5 which is a -- it appears to be a report provided to the
6 international executive board by the Social Security
7 department dated February of 2005 that provides updates
8 on, one, retiree health care coverage and, two, Bush
9 administration pension reform proposals. Are you
10 familiar with this document?

11 A No, I'm not.

12 Q Does this appear to be similar in format,
13 though, to other reports to the international executive
14 board that you created?

15 A Yes.

16 Q The first page of this report references in
17 the second paragraph a Kaiser-Hewitt survey that was
18 released in December 2004. Do you know the survey of
19 which the report is speaking?

20 A No, I do not.

21 Q In your role as an international
22 representative, have you consulted any surveys of

1 **health care plans?**

2 A I guess I'm not quite understanding your
3 question.

4 Q **That's fair. In your role as an international**
5 **representative, have you consulted data regarding**
6 **health care plan terms such as deductibles, premiums,**
7 **etcetera?**

8 A Yes.

9 Q **Do you know the sources of that data? Let me**
10 **ask it a different away.**

11 **In what format was the data that you reviewed?**

12 A I've reviewed data that's been provided by
13 employers that have to do with health care costs. I've
14 reviewed data that's provided by actuaries that have to
15 do with health care costs as well as some outside
16 firms.

17 Q **The data that you have reviewed, does it**
18 **relate specifically to the employer with which you're**
19 **negotiating at the time?**

20 A If the employer provided it, yes.

21 Q **What if the actuary provided it?**

22 A It might not necessarily be from any specific

1 employer.

2 **Q Do the data sets include non-UAW represented**
3 **employers?**

4 A I'm assuming some of it had to. You know, if
5 you read a report or something, it might have some
6 non-UAW folk in there. I don't know.

7 **Q Do the data sets include non-represented**
8 **employees?**

9 A Yeah, assuming they're not represented because
10 if they're not UAW, I know we aren't representing them.

11 **Q Let me ask that a different way. Do**
12 **the -- does the data include participants that are**
13 **non-union represented?**

14 A I believe so. I mean I looked at some of that
15 data that I saw back during the GM financial crisis, I
16 looked at some data that had to do with Nissan and
17 different companies like that, Toyota.

18 **Q So it's not uncommon when engaged in**
19 **bargaining to review data about other health care**
20 **plans?**

21 A I wouldn't say it's uncommon, no. You always
22 look at the landscape. I think you're doing your due

1 diligence.

2 **Q What are you looking for? What's the purpose**
3 **of doing that due diligence?**

4 A One of the things -- one of the
5 responsibilities of my job is negotiating with several
6 different companies that do similar functions. I'll
7 give you an example. The seating industry, we bargain
8 with four or five different large corporations that all
9 assemble seats or OEM, original equipment
10 manufacturers. So I will look to see when I'm
11 negotiating with the Johnson Controls, I might look and
12 see what Lear Corporation is doing in their contracts
13 and it's not just health care. It's wages, you know,
14 all the different components because health care,
15 again, the pie thing. So as it relates to that, yeah,
16 I would look at different companies.

17 **Q Do you have in your experience, is some data**
18 **more valuable as a comparative tool than others?**

19 A I think so. I guess who collected the data,
20 where it was collected from, how it was collected, you
21 know.

22 **Q You said when you're negotiating with seating**

1 manufacturers, you're looking at data from companies
2 that do similar things. Is that a consideration that
3 goes into whether the data is a better comparative over
4 other data sets?

5 A I don't believe so. I think it has more to do
6 with where the data came from.

7 Q On page two of this report at the bottom,
8 there's a section entitled Medicare RX Coverage, the
9 first bullet point under which it says that 58 percent
10 of surveyed employers reported that they would continue
11 offering RX benefits and accept the subsidy. To use
12 the language of the previous exhibit, they're staying
13 in the game. Is that statistic consistent with your
14 observations as an international representative?

15 A I don't know.

16 Q The parenthetical says that 85 percent of that
17 group plan to retain current RX benefits, which -- is
18 that consistent with your observations as an
19 international rep?

20 A I have no reason to say it isn't.

21 Q I'm just asking.

22 A I'm just saying I can't say it is -- you know,

1 I have no reason to say it isn't, so I guess I'm going
2 to say it is. I just don't know.

3 Q The first bullet on the last page says that,
4 "17 percent of surveyed employers reported that they
5 would offer RX coverage as a supplement to the Medicare
6 RX plan (Medicare would be the primary payer.)" Is
7 that the same as coordinating with Part D?

8 A Since I didn't write the document, it's hard
9 for me to say, but based on my reading, yes.

10 Q In terms of premium sharing for retirees, is
11 there a level at which you would not recommend an
12 agreement? That is to say can the premium go
13 sufficiently high that you would not recommend agreeing
14 to it as it pertains to retirees?

15 A No, I don't believe there's a magic number.

16 Q Are there things that you -- in thinking
17 specifically about the premium term for retirees, are
18 there factors that you evaluate in assessing whether or
19 not it is a reasonable premium or not?

20 A I believe there is.

21 Q What are those factors?

22 A I believe some of those factors, again, would

1 have to do with whether it's a vested benefit or not.
2 So let's say that it isn't and then you take a look at
3 what the cost of the insurance is, what the retiree's
4 income is, what the pension benefit is, is there a
5 pension benefit which I'm assuming there is if you're
6 talking health care.

7 **Q Is there a ratio on the income side?**

8 A No, we don't use a ratio. Nobody has ever
9 said, "Here's the ratio, Rick." Again, it's ability to
10 pay. Again, if yours and mine were the exact same
11 company, but you were making billions of dollars and
12 mine wasn't, your ability to pay would be a little
13 better than my ability. So if I was bargaining against
14 both of us, I would expect you to pay more than my
15 company.

16 **Q In your experience, are you seeing built-in**
17 **escalator clauses for premiums in agreements?**

18 A For active employees, yes.

19 **Q What about for retirees?**

20 A No, not really.

21 **Q What about for future retirees?**

22 A In some cases, I'm sure they're out there, but

1 I haven't personally seen them, no.

2 Q There's no UAW prohibition on that for future
3 retirees?

4 A No.

5 Q Going back to Exhibit 38 --

6 A How far back are we going? That's the last
7 one?

8 Q Yes.

9 A Not too far.

10 Q There are a series of bullet points on the
11 first page that reflect average retiree contributions
12 both pre-Medicare and Medicare eligible. The report
13 says that for new pre-65 retirees, the average retiree
14 contribution is \$202 per month and notes it's excluding
15 employers that require no contributions. For new 65
16 and over retirees, the average retiree contribution is
17 \$113 per month, again noting that it's excluding
18 employers that require no contribution. How do those
19 average figures as reported in this document compare
20 with monthly retiree contributions that you're seeing
21 in your experience as an international representative?

22 A I don't think they have any comparison.

1 **Q Why is there no comparison?**

2 A Well, I guess the reason there's no comparison
3 is because I'm not sure where these numbers -- I see
4 numbers all over the board, so some are higher, some
5 are lower and again, it depends on the negotiations
6 that you're in. So that's why I'm saying there's no
7 comparison. I'm assuming these numbers were made by
8 Kaiser-Hewitt's survey without me reading this whole
9 thing.

10 **Q That's my assumption as well.**

11 A So their assumption based on across the
12 country, to me, that's irrelevant in bargaining what
13 the rest of the country is doing. What's relevant is
14 the negotiations that I'm in today, not what the
15 national average is.

16 **Q But if I am correct in interpreting what you**
17 **said, you see some monthly contributions lower than**
18 **that, you see some higher than that?**

19 A Yeah. I would suspect it's a little bit here
20 and a little bit -- again based on the ability to pay.

21 **Q Does the UAW have any guidance on the level of**
22 **out-of-pocket costs, not counting premiums, that a**

1 **retiree should have under a health care plan?**

2 A No. By guidance, as low as possible I guess
3 would be our guidance.

4 **Q Is there a maximum --**

5 A No.

6 **Q -- a maximum deductible for example?**

7 A No. Again, it comes back to the negotiations.
8 I think I've already testified that we're not in big
9 favor of high deductible plans, but we have them.

10 **Q Do you understand what the term stop loss**
11 **means?**

12 A Oh, absolutely.

13 **Q What do you understand the term stop loss to**
14 **be?**

15 A Stop loss refers to a company that's self
16 insured is my understanding.

17 **Q Okay. Do you have an understanding as to how**
18 **it pertains to the terms of a particular health care**
19 **plan?**

20 A I believe it pertains to the health care plan.
21 I think insurance companies will probably let you write
22 it just about any way you want, but again, I'm not

1 intimately involved with that. My understanding is you
2 have individual stop loss and group stop loss.

3 **Q If I used the term stop loss and out of pocket**
4 **maximum interchangeably --**

5 A I don't believe those are interchangeable
6 statements.

7 **Q Okay. Well, how would an individual stop loss**
8 **operate in practice?**

9 A My understanding of stop loss is let's say
10 that you're a company and you have a self insured plan.
11 So in order to keep you from going bankrupt because
12 everybody had a heart attack, you pay for some type of
13 stop loss insurance. Another term I use commonly is
14 known as reinsurance. So in other words, you say that
15 we're going to pay all claims up to five million
16 dollars. If our health care claims annually exceed
17 five million dollars, the stop loss insurance kicks in.

18 Now, you pay a premium for stop loss
19 insurance, so you as an employer, you balance out how
20 much does my premium cost for the level of stop loss.
21 So in other words, do I think I'm going to cross five
22 million? Probably not. So maybe I want four million

1 in stop loss.

2 Then the next set of that criteria is the
3 individual stop loss which means we're all insured
4 under the same plan. Any individual that exceeds
5 \$250,000 in claims in a year, the stop loss would kick
6 in on that individual policy even though the five
7 million hasn't been met by everybody.

8 **Q If I use the term out of pocket maximum, what**
9 **do you understand that to be?**

10 A I understand that to be the amount of money a
11 covered individual is going to pay out of their pocket,
12 the maximum amount in any given year.

13 **Q After which what happens?**

14 A Usually in stop loss, then it becomes a 100
15 percent paid benefit by the employer. And again, when
16 I say 100 percent paid benefit, that really depends on
17 how the plan is written and what is included in that
18 maximum out of pocket.

19 **Q Is there a -- how does a bargainer evaluate**
20 **what an appropriate out-of-pocket maximum would be?**

21 A I guess what plan is currently in effect and
22 what the ability to negotiate is. I guess that's

1 probably the simplest.

2 **Q Same thing for deductibles?**

3 A I believe so. I mean utopia is first dollar
4 coverage.

5 **Q Are you seeing a lot of first dollar coverage**
6 **being agreed to recently?**

7 A Not necessarily.

8 **Q Speaking about deductibles and out-of-pocket**
9 **maximums, does it matter to your calculus whether it's**
10 **an in-network or out-of-network benefit?**

11 A I think there's usually a difference. I mean
12 usually, there's an out-of-pocket maximum for a network
13 and an out-of-pocket maximum for out of network.
14 That's usually how the plans are written these days.

15 **Q I agree. Are the considerations for**
16 **evaluating what is a reasonable amount for either --**
17 **for deductibles and out-of-pocket maximum, do the**
18 **criteria change whether it's an in-network or**
19 **out-of-network benefit?**

20 A I don't think so, but I think the only reason
21 the criteria would change is because of the fact that
22 you're trying to drive people to use in-network

1 doctors. So your out-of-pocket maximum for out of
2 network would probably be significantly higher.

3 **Q In your experience, are there negotiations in**
4 **which retirees, the cost of health care benefits to the**
5 **retirees increases, but they're also getting a somewhat**
6 **better benefit?**

7 A Is that going on?

8 **Q That's my question.**

9 A I would assume it is.

10 **Q Have you experienced that?**

11 A I haven't negotiated that, no.

12 **Q If that is what happened in a negotiation, how**
13 **do you evaluate whether to approve that bargain or not?**

14 A Well, again, when we're talking about
15 retirees, the first thing that comes back to is whether
16 it's a vested benefit or not. Secondly, if it's not a
17 vested benefit and if there is an ability to do that or
18 you're talking about maybe doing something different
19 for futures, again, you evaluate the entire package.

20 **Q The entire package for the retirees or the**
21 **entire package for everyone?**

22 A Well, if you're talking about if it's not a

1 vested benefit, it would be the entire package for
2 everybody. And again, it all depends on the contract
3 language that's in play and that particular agreement.
4 You have to keep coming back to that pesky little
5 contract. They're not all the same.

6 **Q So in the example of benefits improving with**
7 **some additional costs to the retirees, can you**
8 **determine whether for retirees it's an overall**
9 **improvement or reduction?**

10 A I think you can give it your -- I think you
11 can come up with what your opinion is. Again,
12 depending on who the retiree is and what the retiree's
13 condition, you know, what their particular situation is
14 is whether it's an improvement or not.

15 **Q Each individual retiree?**

16 A Yeah. I'll use an example of a doctor's
17 office call. If you increase -- we'll just for the
18 sake of argument, I don't care if they're retired or
19 active, but you're making a change and the benefit is
20 you're going to put in an office call component, but
21 you're going to charge people three more dollars a
22 month on their premium share for the office call

1 component. Most people would say that's an improved
2 benefit. But if I never go to the doctor, it's not an
3 improved benefit for me. So you tell me. Is it an
4 improved benefit or not?

5 **Q I'd asked you how to interpret --**

6 A I would say it is because again, we're
7 negotiating based on the entirety.

8 **Q So is it in the judgment of the bargainer?**

9 A Well, eventually, it's in the judgment of the
10 membership. They're ratifying the contract if that's
11 what the case is. I guess it ultimately is their
12 decision if it's an improved benefit or not. But in my
13 opinion, it would be in that example.

14 **Q But they're voting on the entire contract?**

15 A Yes.

16 **Q In your experience, do negotiations result in**
17 **active members making economic sacrifices for the**
18 **benefit of retired members?**

19 A In some cases, I'm sure they do.

20 **Q Have you experienced that as a bargainer?**

21 A Yes.

22 **Q In your experience, what kind of economic**

1 **sacrifices do actives make?**

2 A I'm sure maybe you don't get as big a raise as
3 you might. Maybe you don't -- you know, again, it's a
4 pie, so if you're shifting part of the pie to the
5 retiree side or to provide a benefit for retirees, then
6 you could say that the actives aren't getting as much
7 as they could have if you wouldn't have. What that is
8 I'm not sure. Is it an extra holiday? Is it an extra
9 quarter an hour? I guess it's where you spend the
10 money, but yes, there's some amount of money being
11 spent on one thing versus another.

12 **Q As a bargainer, how do you evaluate whether**
13 **active members should make that type of sacrifice for**
14 **retirees?**

15 A You look at the landscape. You look at what
16 the situation is with the current active employees.
17 You look at what it takes to get a ratification vote.
18 There's a lot of different factors and they're not
19 always the same in each facility.

20 **Q I understand. I'm just trying to get a sense**
21 **of --**

22 A If it's something that you have to ratify,

1 that has a lot to do with decision making. I've done a
2 lot of things that I personally would not do. I've
3 accepted some lump sums before and turned down general
4 wage increases because it was easier to get the lump
5 sums ratified. Is it right? Probably not. In the
6 long run, a GWI is probably better than lump sum,
7 general wage increase, but it really doesn't matter if
8 I don't ratify the contract, does it?

9 **Q And in that example, the lump sums are going**
10 **to existing retirees?**

11 A No, the net example might be they would be
12 going to active employees.

13 **Q Okay.**

14 A But logic isn't always the only factor when it
15 comes to negotiating a contract.

16 **Q Does the fact that the retirees are retirees**
17 **and not part of the bargaining unit matter?**

18 A I guess it has to do with what the current
19 agreement is. If it's a vested benefit, then I don't
20 think it matters at all. If it's not a vested benefit,
21 I think you have to take it into consideration.
22 They're members even though they're retired.

1 **Q As a bargainer, do you place their interests**
2 **on equal footing with actives?**

3 A I don't believe so. Again, it depends on the
4 contract and I guess it would depend on the size of
5 the -- retirees always like to be, my experience, a
6 little bit above the actives because they've already
7 put their time in. The actives haven't quite got
8 there. But that's not always necessarily the case
9 because again, retirees don't vote on contract
10 ratification.

11 **Q But there are instances in which actives**
12 **ratify agreements that sacrifice active economic**
13 **benefits for retired members' benefits?**

14 A Yeah. In most of those case, it's because
15 they're going to be a retiree at some point in time.
16 So it might be in their best interest possibly.

17 **Q Now, the negotiation of retiree health care**
18 **benefits, what impact does the presence of a voluntary**
19 **employee benefit association or VEBA, have on the way**
20 **you bargain retiree health care benefits?**

21 A Well, if there's a VEBA, you might not be
22 bargaining at all about retiree health care benefits.

1 **Q Why not?**

2 A If there's a VEBA in play, that might be the
3 vehicle that the retiree benefits are provided from.

4 **Q Well, does it matter who runs the VEBA?**

5 A Yeah, I think it would matter who would run
6 the VEBA, but again, the VEBAs I'm familiar with, they
7 are stand-alone VEBAs and they're run by a group of
8 trustees. They're not run by the UAW. So --

9 **Q Does the UAW sponsor any VEBAs?**

10 A I'm not sure what you mean by sponsor. I
11 don't believe we do. I believe all the VEBAs we're
12 associated with are run by a group of trustees. Some
13 of the trustees are appointed by the UAW.

14 **Q Are you familiar with the VEBA's form for the**
15 **Big Three auto makers?**

16 A I'm familiar with them. I'm not an expert on
17 those.

18 **Q Do any employers in the IPS group have VEBAs**
19 **associated with their health plans?**

20 A Yeah.

21 **Q And in those instances because there's a VEBA,**
22 **you're no longer negotiating with the employer about**

1 the health care benefits?

2 A Not for the retirees, no.

3 Q Do you have any experience in working with
4 VEBA trusts?

5 A I sit on several of them.

6 Q Do those VEBA trusts pay for retiree health
7 care benefits?

8 A The ones I'm associated with, yes.

9 Q Does the VEBA trust -- do the VEBA trusts, the
10 boards of which you sit on, have fixed assets?

11 A Some of them do. Some of them don't.

12 Q The ones that have fixed assets, for the ones
13 that have fixed assets, are there ongoing negotiations
14 with the employer about current retiree health care
15 benefits?

16 A No.

17 Q The VEBA trusts with fixed assets, do you
18 take -- does the trust take steps to maximize its
19 ability to pay for the benefits?

20 A I don't understand your question.

21 Q Is there anything that the fixed asset VEBA
22 trust can do to make its assets last longer?

1 A Yes.

2 Q What sort of things in your experience --

3 A Increase retiree contributions, change plan
4 design.

5 Q But that's not done in the context of
6 negotiations with the employer?

7 A No.

8 Q Do the trusts make an assessment of whether or
9 not the benefits are vested?

10 MR. MACEY: Let me interpose an objection.
11 Josh, we're here on question nine or topic nine, which
12 is the level of post-retirement health benefits
13 demanded currently by the UAW in collective bargaining
14 negotiations. I think you're headed out of bounds on
15 that question. Do you envision -- is there something
16 we ought to go off the record and discuss in terms of
17 where you're headed or is this just an incidental
18 question or two?

19 MR. ROGACZEWSKI: It's an incidental question
20 or two. I mean we can go off the record. I'm happy to
21 discuss it.

22 MR. MACEY: Let's do that.

1 (Discussion off the record.)

2 (Exhibit No. 39 was marked for
3 identification.)

4 BY MR. ROGACZEWSKI:

5 Q You have in front of you what's been marked as
6 Exhibit 39, which is a two-page document that's titled
7 GM Benchmarked to Toyota. Are you familiar with this
8 document?

9 A No, I'm not.

10 Q You've seen in your work as an international
11 representative, you've seen comparisons between
12 different health care plans though, right?

13 A Yes.

14 Q Are you familiar with this either abbreviation
15 or acronym T-R-A-D on the first page?

16 A I'm assuming it's GM traditional.

17 Q You don't know that?

18 A No, I don't know for sure.

19 Q What about the POS next to Toyota, is that an
20 abbreviation you've seen before?

21 A I'm assuming it's Toyota point of the service.

22 Q What does point of service mean in that

1 context?

2 A The health care plan.

3 Q If you know, are both of these plans UAW
4 negotiated?

5 A I don't believe so.

6 Q Which one do you believe is not UAW
7 negotiated?

8 A I'm assuming Toyota.

9 Q Does the UAW represent any locals of Toyota
10 workers?

11 A Not anymore. Again, I'm assuming.

12 Q I understand.

13 A Well, the reason I say that is because we used
14 to represent the workers at NUMMI.

15 (Exhibit No. 40 was marked for
16 identification.)

17 Q As an international representative, have you
18 ever compared a UAW negotiated plan with a non-UAW
19 negotiated plan?

20 A I personally have not.

21 Q Is that a comparison that -- would a
22 comparison like that have any value to you as a

1 **negotiator?**

2 A If I was -- going back to a like industry
3 argument, if I was looking at like industries to see
4 what the cost structure was at a non-union plant that
5 was doing the same product line as a union plant, I
6 think there would be some value.

7 Q You have what's been marked as Exhibit 40
8 which is a six-page document that appears to compare
9 post-retirement benefits, life and health, of Honda,
10 Ford and GM. Are you familiar with this document?

11 A No, I'm not.

12 Q If you know, are the three plans compared in
13 this document UAW-negotiated plans?

14 A I don't know that.

15 Q Are there any that you know are UAW
16 negotiated?

17 A Ford and General Motors.

18 Q And Honda you're not sure about?

19 A Honda, no, I'm not sure.

20 Q This is a pretty detailed comparison. Is this
21 similar to -- is this level of detail useful as a
22 comparator?

1 A I guess to what extent you're using it as a
2 comparator for.

3 Q If you were in negotiations and you were
4 looking at what was on the table in terms of the
5 details of the plan that's being negotiated, is this
6 level of detail something that a bargainer, that you as
7 a bargainer would find useful?

8 A Yeah.

9 (Exhibit No. 41 was marked for
10 identification.)

11 Q You have in front of you what's been marked as
12 Exhibit 41 which is a seven-page document labeled A
13 Comparison of Benefits, stamped Draft. It appears to
14 compare various types of benefits including retiree
15 medical coverage between Nissan, Mitsubishi and NUMMI.
16 Are you familiar with this document?

17 A No, I'm not.

18 Q Are any of the three plans compared here
19 UAW-negotiated plans?

20 A I'm assuming NUMMI is.

21 Q What about Nissan and Mitsubishi?

22 A I'm not really sure about Nissan and I'm not

1 positive about Mitsubishi, but it might be.

2 **Q As a negotiator, would a comparison of three**
3 **non-UAW negotiated plans be useful?**

4 A I'm not sure. Would it be useful for what
5 purpose? Would it be useful to have? Probably just to
6 see what everybody else is doing.

7 **Q Again, it's not -- the fact -- if none of**
8 **these plans are non-UAW negotiated, it doesn't**
9 **eliminate all value it has?**

10 A No.

11 MR. ROGACZEWSKI: I pass the witness.

12 MR. MACEY: I have no questions.

13 MR. RADTKE: I have no questions.

14 (The deposition was concluded at 3:45 p.m.)

15 * * * * *

16 I have read the foregoing pages, which are a
17 correct transcript of the answers given by me to the
18 questions therein recorded.

19

20 Deponent _____

21 Date _____

22

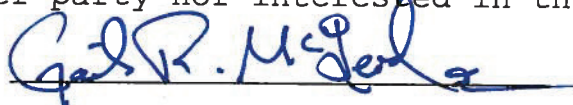
CERTIFICATE OF NOTARY

STATE OF MICHIGAN)

) SS

COUNTY OF MACOMB)

I, Gail R. McLeod, Certified Shorthand Reporter, a
Notary Public in and for the above county and state, do
hereby certify that the above deposition was taken
before me at the time and place hereinbefore set forth;
that the witness was by me first duly sworn to testify
to the truth, and nothing but the truth, that the
foregoing questions asked and answers made by the
witness were duly recorded by me stenographically and
reduced to computer transcription; that this is a true,
full and correct transcript of my stenographic notes so
taken; and that I am not related to, nor of counsel to
either party nor interested in the event of this cause.



Gail R. McLeod, CSR 2901

Notary Public,

Macomb County, Michigan

My Commission expires: September 23, 2017